

RULE 16

PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) Scheduling Conference

A Scheduling Conference may be ordered by a judicial officer no later than sixty (60) days following the defendant's first appearance after the filing of the complaint. Counsel shall not be required to file pretrial memoranda for the Scheduling Conference but shall be fully prepared to discuss, among others:

- (1) jurisdictional issues
- (2) questions concerning joinders of parties or claims
- (3) amendments to the pleadings
- (4) material factual contentions and the applicable rules of law
- (5) framing of stipulations concerning factual admissions and documents with respect to which there will be no discovery so as to avoid unnecessary proof
- (6) the time reasonably required for completion of discovery
- (7) the time estimated for filing and disposition of pending or reasonably anticipated motions
- (8) the desirability of separation of issues and limits on discovery
- (9) pending or contemplated related actions
- (10) the need to adopt special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions or unusual evidentiary problems
- (11) the possibility of settlement or pretrial adjudication
- (12) anticipated dates for the Pretrial Conference and trial

(b) Scheduling Order

Immediately after the Scheduling Conference, the judicial officer will enter a Scheduling Order detailing any agreements between the parties, setting time limits to cure any jurisdictional deficiencies, for joinder, amendments to the pleadings, file motions, and to complete discovery. The Scheduling Order shall also set a date for the Pretrial Conference, trial, and any other matter. The Court may issue a Scheduling Order without convening an Initial Scheduling Conference.

(c) Certificate of Readiness for Pretrial Conference

Any party may move to proceed for a Pretrial Conference provided the motion is accompanied by a Certificate of Readiness, indicating that:

- (1) the action is at issue as to all parties
- (2) it has completed all desired depositions, other discovery, and pretrial motions, except those completed in the exercise of due diligence
- (3) it has met all obligations with respect to depositions, requests for discovery or motions initiated by other parties
- (4) it is ready for pretrial conference and trial

(d) Proposed Pretrial Order

A Pretrial Conference shall be held not less than thirty (30) days prior to the scheduled trial date, unless the Court provides otherwise. At least fifteen (15) days prior to the Pretrial Conference date, counsel for each party shall meet in order to prepare a Proposed Pretrial Order, to be filed with the Court at least seven (7) days before the Pretrial Conference, containing the following information:

- (1) the names, mailing and email addresses, and telephone and facsimile numbers of all attorneys involved in the litigation
- (2) a brief factual statement of each party's claim or defense, as the case may be, including an itemized statement of any damages claimed
- (3) a brief statement of the party's contentions with respect to any controverted material facts, contested issues of law, including evidentiary questions, together with supporting authority
- (4) proposed stipulations concerning matters which are not in substantial dispute and to facts and documents which will avoid unnecessary proof
- (5) the names and addresses of all witnesses the party intends to call at trial, other than those to be used for impeachment and rebuttal, but in the absence of stipulation, the disclosure of a witness shall not constitute a representation that the witness will be produced or called at trial
- (6) a list of the documents and items each party intends to offer as evidence at trial sufficiently describing each document or item for ready identification, identifying those whose admissibility is stipulated or contested, together with supporting authority for the objection:
 - (A) documents and items whose admissibility is stipulated shall be marked as "Exhibit" in numerical order beginning with the number "1"
 - (B) documents and items whose admissibility is contested shall be marked as "Identification" in alphabetical order beginning with the letter "A"

- (C) documents and items as to which privilege, attorney work-product, or other confidentiality claim is yet to be determined may refer to the document or item in general terms, and present any substantiated claim of privilege or confidentiality to the Court
- (7) a list of all the trial witnesses (except impeachment or rebuttal witnesses) for each party, including a brief statement as to the testimony
- (8) a list of all the expert witnesses at trial for each party, including a brief and general statement as to each
- (9) a statement by each party as to claims or defenses that are deemed waived or abandoned
- (10) a list of all pending motions
- (11) an estimate of the number of days required for each party's presentation of its case at trial
- (12) if one has not already been set by the Court, a suggested date for commencement of trial, including a statement by each party as to potential problems concerning attendance of parties, counsel or essential witnesses, or any other matter pertinent when scheduling the trial

Each party shall be prepared at the Pretrial Conference to discuss the issues set forth above, to exchange or to agree to exchange medical reports, hospital records, and other documents, to make a representation concerning settlement as set forth in this rule and to discuss fully all aspects of the case. Absent good cause shown, the Court may exclude from evidence at trial documents, items, or witnesses not listed or identified as required in this rule, or deem those objections not specified pursuant thereto as waived.

(e) Pretrial Conference

The Court will consider at the Pretrial Conference: the proposed Pretrial Order, as well as the pleadings and papers then on file; all motions and other proceedings then pending; and, any other matters referred to in this rule or in Fed. R. Civ. P. 16 which may be applicable.

Unless excused for good cause, each party shall be represented at the Pretrial Conference by counsel who is to conduct the trial on behalf of such party, who shall be thoroughly familiar with these Rules and with the case. Counsel shall be required to make a representation to the Court that counsel has made a recommendation to the client with respect to settlement and that the client has acted on such recommendation.

(f) Pretrial Order

Either at or following the Pretrial Conference, the Court shall enter a final Pretrial Order, which shall recite the action taken at the conference, and such order shall control the subsequent course of the action, unless modified by the Court to prevent manifest injustice.

Unless otherwise ordered, any objections to the final pretrial order must be made within ten (10) days after receipt by counsel of a copy thereof. Any discussion at the conference relating to settlement shall not be a part of the final Pretrial Order. The final

Pretrial Order deadlines shall be such that they do not come into play until after the last Settlement Conference has been held and it appears that trial is unavoidable. In any case where there is a pending dispositive motion, one item on the final Pretrial Conference agenda shall be whether the provisions and deadlines of the final Pretrial Order should be stayed until the motion is resolved.

The number of copies of documents to be filed shall be limited. In a jury case, the original set of exhibits is ordinarily sufficient and should not be filed with the Clerk before trial. In a non-jury case, one extra set for the judge to review in advance of the trial should be adequate. Trial briefs, voir dire, jury instructions, etc. should be simply the original and one copy.

(g) Sanctions

If a party fails to comply with the requirements of Fed. R. Civ. P. 16 or this rule, the Court may impose such penalties and sanctions as are just, including those set forth in Fed. R. Civ. P. 16(f).

(h) Special Circumstances or Judge-Specific Requirements

The Court may provide for a special pretrial procedure in any case when special circumstances warrant. The judicial officer presiding at the final Pretrial Conference may tailor this rule's requirements and the final Pretrial Order to the individual case and consider whether certain provisions should be waived.

(i) Settlement Conferences

A judicial officer may direct that a separate settlement conference be held with party representatives present in person.

(j) Deadlines

- (1) Deadlines Established by the Court. Deadlines established by the Court shall not be changed by agreement between the parties without Court approval.
- (2) Discovery Deadlines. A stipulation extending the time within which to respond or object to a discovery request or to take a deposition need not be approved by the Court provided the extended date by which the response is due or on which the deposition is to be taken is prior to the discovery completion date established for the case or at least thirty (30) days prior to the date set for the Pretrial Conference, whichever is earlier. Any such out of court stipulation shall not alter the discovery deadlines set forth in the Scheduling Order. The stipulation shall be in writing.